

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:23-cv-00124-MR-WCM**

AVEONTAY ARMSTRONG,

Plaintiff,

vs.

**MARTIN O'MALLEY,
Commissioner of Social Security,**

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for Attorney Fees under the Equal Access to Justice Act [Doc. 16] and the parties' Stipulation for an Award of Attorney's Fees [Doc. 18].

By his motion, Plaintiff initially sought an award of \$4,054.60 in attorney's fees in full satisfaction of any and all claims by Plaintiff in this case pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (the "EAJA"). [Doc. 16]. However, after Plaintiff filed his motion, the parties stipulated that he would withdraw his motion and accept an award of \$4,000.00. [Doc. 18]. In light of the Court's prior remand of this matter, and in the absence of any contention by the Commissioner that his position was substantially justified or that special circumstances exist that would render an award of attorney's

fees unjust, the Court concludes that Plaintiff is entitled to an award of attorney's fees under the EAJA.

Plaintiff requests that the EAJA award be paid directly to his counsel as his assignee. In support of this request, Plaintiff has submitted a fee agreement executed by Plaintiff, pursuant to which Plaintiff has agreed to assign any EAJA fee award in favor of his counsel. [Doc. 17-1]. The Court finds that the Commissioner should accept this assignment of the awarded fees by Plaintiff to his counsel and upon receipt of such assignment, the Commissioner will pay the awarded fees directly to Plaintiff's counsel, provided that it is shown that Plaintiff does not owe any debt to the United States Government which is subject to offset. See Astrue v. Ratliff, 560 U.S. 286 (2010).


IT IS, THEREFORE, ORDERED that:

- (1) Based on the parties' Stipulation for an Award of Attorney's Fees [Doc. 18], Plaintiff is hereby awarded attorney's fees in the amount of Four Thousand Dollars (\$4,000.00), which sum is in full satisfaction of any and all claims by Plaintiff in this case pursuant to 28 U.S.C. § 2412(d);
- (2) Plaintiff's Motion for Attorney Fees under the Equal Access to Justice Act [Doc. 16] is **DENIED AS MOOT**.

- (3) Within thirty (30) days of the entry of this Order, or some other time as determined by the Court upon good cause shown, the Commissioner shall inform Plaintiff's counsel whether Plaintiff owes a debt to the Government by which this fee award may be offset. Before any funds are disbursed to counsel, Plaintiff's counsel shall provide a valid fee assignment to Defendant;
- (4) In the event that past-due benefits are awarded on remand, Plaintiff shall have sixty (60) days after being served with notice of the past-due benefits award to file for an award of fees pursuant to the Social Security Act, 42 U.S.C. § 406(b); and
- (5) No additional Petition pursuant to 28 U.S.C. § 2412(d) may be filed.

IT IS SO ORDERED.

Signed: May 15, 2024



Martin Reidinger
Chief United States District Judge

